

said closure when said closure is attached to said container, said outlet passage having a fluid entrance and a fluid exit so as to provide communication between the interior and exterior of said container, said outlet passage having sufficient volume to prevent contained liquid from reaching said fluid exit when said apparatus is inverted.

36. The apparatus according to claim 35 wherein said closure further includes a spout, said outlet passage extending through said spout.
37. The apparatus according to claim 35 wherein said closure further includes a vent means which allows air to enter said container at a predetermined pressure differential between the interior and exterior of said container.
38. The apparatus according to claim 35 wherein said outlet passage is at least one single loop helix.
39. The apparatus according to claim 35 wherein said fluid entrance is at substantially the lowest liquid level when said container is inverted.
40. The apparatus according to claim 35 wherein said outlet passage has a volume greater than .060 cubic inches.

#### REMARKS - General

Applicants have rewritten all 3 independent claims to define the invention more particularly so as to overcome the technical rejections and define the invention patentably over the prior art.

#### The Rejection of Claims Under § 112 is Overcome

Applicants have used the term "vent means" in claims 23, 30, and 37 as a function to be performed. In addition, there are numerous vent systems shown in the prior art. It would be obvious for one of ordinary skill in the art to use any one of these vent systems to allow air to enter the cup. 5,542,670 Morano, 5,706,973 Robbins III et al., UK 2,266,045 Haberman, 6,321,931 Hakim et al., and 6,050,445 Manganiello all use a slit membrane to vent the cup. 5,890,620 Belcastro uses a membrane and seat for

venting. 5,890,619 Belanger discloses a vent system in which the free edges of a membrane abut one another to form a slit. 5,079,013 Belanger uses a ball, seat, and spring to create a vent means. 6,357,620 Hakim discloses a vent system comprising a membrane with a through hole which seals on a protruding member. This is only a few of the venting means identified in the prior art. Based on the above, applicants believe the vent means does not need to be specifically identified.

**The Rejection of Claims Under § 102 and § 103 are Overcome**

Applicants have rewritten 3 independent claims to avoid the Betka et al. reference. Specifically, claims 21, 28, and 35 define a closure, in combination with a container, which has an outlet passage of sufficient volume to prevent the contained liquid from reaching the fluid exit when the container is inverted, thus it will not leak. Betka does not disclose such a structure. Betka teaches a closure, in combination with a container, which has both a free flowing vent system and an unspecified outlet passage volume. Betka also requires the closure be manually turned to the closed position for the apparatus to be spill-proof. The claimed invention requires a minimum outlet passage volume which is not suggested by Betka. In addition, the claimed invention will produce a different result (leak-proof when inverted) than the result of Betka. Based on the above, it can be concluded that Betka teaches away from the claimed invention and therefore cannot anticipate the invention as claimed. Applicants respectfully submit that the structure of claims 21, 28, and 35, as amended, distinguish over the structure of Betka.

Claims 22-27 depend directly from claim 21 and are not anticipated in view of Betka for the same reason claim 21 is not anticipated.

Claims 29-34 depend directly from claim 28 and are not anticipated in view of Betka for the same reason claim 28 is not anticipated.

Claims 36-40 depend directly from claim 35 and are not anticipated in view of Betka for the same reason claim 35 is not anticipated.

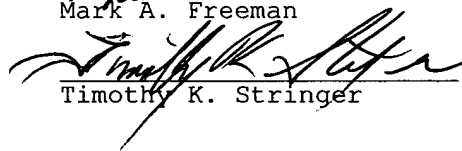
**Conclusion**

Because the present invention specifies a minimum outlet passage volume and prevents or controls the air flow into the container, it is non-obvious to one of ordinary skill in the art. For this reason, as well as those mentioned above, applicants submit that the claims all define patentably over the prior art. Therefore they submit that this application is now in condition for allowance, which action they respectfully solicit.

Very respectfully,



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